

[illegible]Remarks

This divisional is directed to claims rejected in the parent application, and canceled therefrom.

Responding to the Examiner's remarks, Applicant notes that all payment methods described within the Checkfree/Kight system are described in the context of the overall objective of controlling credit risk of the service provider. While the Examiner is correct that in some cases payments are made on the account of the service provider, this is only done where the credit risks of doing so have been deemed to be sufficiently low. See, e.g., col. 6 lines 32-38: "If a payment amount is greater than the consumer's credit limit, the item is released as a draft 76 which is written on the consumer's account. If the payment amount plus the total of electronic payments in a particular month is greater than the consumer's credit limit, the item is released as a draft".

The premise of the Examiner's reply appears to be that there would be reason to combine Pickering with Checkfree/Kight because Checkfree/Kight under some limited circumstances will

make payments on its own account. But as Applicant has previously pointed out, in Pickering the service bureau by the nature of its operation always makes payments on its own account. Thus, the fact remains that Pickering is incompatible with Checkfree/Kight as Pickering requires credit risks, which Checkfree/Kight prevents or tightly controls. This would act against any motivation to combine the systems, since they are not compatible.

The Examiner's statement that "if the prior art structure is capable of performing the intended use, then it meets the claim limitation". This statement is correct as stated, but the Examiner is using it to mean something else. The cited cases does not stand for the proposition that, if a combination of references that yields the claim limitations could have been made, then merely showing that the combination could have been made is sufficient to make the rejection. The law, in fact, is quite clear that the combination must not only be possible, it must be consistent with the references and in some way motivated or suggested. It is at this point that Applicant is arguing: the incompatibility between what Pickering requires and what Checkfree/Kight does would act against any combination that "could" be made.

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